

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**

**TAMARA K.,<sup>1</sup>**

Plaintiff,

v.

**NANCY A. BERRYHILL**, Deputy  
Commissioner for Operations, performing the  
duties and functions not reserved to the  
Commissioner of Social Security,

Defendant.

Case No. 3:17-cv-01824-YY

**ORDER**

**Michael H. Simon, District Judge.**

United States Magistrate Judge Youlee Yim You issued Findings and Recommendation in this case on January 2nd, 2019. ECF 16. Magistrate Judge You recommended that the Commissioner's decision denying Plaintiff's applications for Disability Insurance Benefits and Supplemental Security Income should be affirmed.

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<sup>1</sup> In the interest of privacy, this opinion uses only the first name and the initial of the last name of the non-governmental party in this case.

Under the Federal Magistrates Act (“Act”), the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

Plaintiff timely filed an objection. ECF 18. Plaintiff argues that the ALJ erred by improperly assessing Plaintiff’s subjective system testimony, the medical opinions, and lay witness testimony. The Court has reviewed *de novo* those portions of Magistrate Judge You’s Findings and Recommendation to which Plaintiff has objected, as well as the Commissioner’s response. The Court agrees with Magistrate Judge You’s reasoning and ADOPTS those portions of the Findings and Recommendation.

For those portions of Magistrate Judge You's Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Magistrate Judge You's Findings and Recommendation, ECF 16. The Commissioner's decision denying Plaintiff's applications for Disability Insurance Benefits and Supplemental Security Income are **AFFIRMED**.

**IT IS SO ORDERED.**

DATED this 14th day of February, 2019.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge